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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
Water Advisory Branch**

**RESOLUTION W-4207
July 20, 2000**

RESOLUTION

**(RES. W-4207), COMPLIANCE VERIFICATION RESOLUTION:
STATUS OF VIOLATIONS LISTED IN RES. W-4187 FOR THE
CONLIN STRAWBERRY WATER COMPANY, INC. (CSWC),
RESULTS OF FINAL VERIFICATION REPORT AND DEADLINE
FOR COMPLETION OF EXISTING REQUIRED COMMISSION
AND DEPARTMENT OF HEALTH SERVICES (DHS) ITEMS.**

SUMMARY

Res. W-4187, dated January 20, 2000, listed two CPUC and four Department of Health Services (DHS) non-compliance issues to be corrected by CSWC by April 30, 2000. The Water Division and the DHS completed an audit of these six items. As required in Res. W-4187, Water Division wrote a final verification report finding two CPUC items still not completed. All past DHS items were corrected, but six new DHS items have been sent to CSWC for compliance.

The Commission finds none of these past or new issues should instigate preparation, for the Commission's review, of a petition, seeking the appointment of a receiver to assume possession of CSWC and to operate the utility system. The case should continue to be left open until all issues are completed.

BACKGROUND

Ordering Paragraph (OP) 2 of Res. W-4187 requires:

"2. As previously ordered in D.99-11-044, within one month following the April 30, 2000 deadline for completion of system improvements, the Director of the Commission's Water Division shall file for our review, with a copy to the Commission General Counsel, a final compliance verification report regarding the status of required system improvements."

On May 9, 2000, Water Division staff met with DHS and CSWC personnel to inspect the system for compliance with prior Commission orders. This resolution contains the results of that inspection and as a result of the final verification report, lists the current non-compliance items for completion with a deadline.

Violations of Prior Orders

Res. W-4187 found CSWC had not complied with two of the violations first recorded in Decision (D.) 83-05-052 that decreed CSWC to comply with Commission orders. Table One provides the present compliance status of those remaining two violations :

Table One: Present Compliance Status to CPUC Orders

CPUC Violation	Comments	Status of compliance
1. Improve pump efficiency to 50% or better for both pumps within one year from the date of this order.	Pumps with less than 10 Hp not part of this requirement.	Completed
2. Contract with a licensed civil engineer to formulate a plan for plant improvement and proper progressive maintenance, as set forth in Finding 7, a copy of the engineering report being furnished to the Commission Hydraulic Branch and the DHS within 30 days.	A two page letter under the letterhead of engineer Frank Walters was received by the Commission on 4/18/00. This "report" is a laundry list -- not an engineering report and does not comply with resolving the violation.	NOT SATISFACTORILY COMPLETED

In addition, W-4187 found CSWC had violated its water certificate mandate to comply with six DHS orders. Table Two provides the compliance status of those six DHS Orders.

Table Two: Present Compliance Status to DHS Orders

DHS Violation	Comments	Status of compliance
Repair leaks in the Lower Dymond tank.	<i>Critical Issue according to DHS member.</i> Numerous "boiler plugs" in tank panel, but not leaking during inspection.	Completed
Automate the Dymond pressure zone pump system, or if operated manually, conduct daily monitoring and revise the system operations plan accordingly.	Revision to system operations plan to manually operate pump.	Completed
Add stand-by pumps at both pump stations because existing pumps are unreliable.	Second pumping station verified 4/18/00 by DHS member	Completed
Implement an active cross-connection control program and adopt an applicable ordinance.	<i>Critical Issue according to DHS member.</i> All but one connection affected by this order had responded and should be corrected within 90 days.	Considered Completed

OP 7 of D.99-11-044 instigated both the verification report and Res. W-4187. The second sentence of OP 7 states:

“Said resolution shall also address whether, as required by D. 96-09-043 (68 CPUC2d 52 at 67), the company has hired a qualified system operator or manager who is willing to abide by prior Commission and DHS orders.”

The final verification report ordered in OP 2 of Res. W-4187 addresses both the site inspection conducted for the above CPUC and DHS violations and requirements OP 7 of D.99-11-044.

Results of CPUC/DHS Inspection

Staff determined the first CPUC violation to be completed.

ENGINEERING REPORT

However, staff has determined the second item above ***has not been satisfactorily completed***.¹ Received by the Commission on April 26, 2000, was a two page letter sent to the Commission as compliance to OP 3 of D.83-05-052. The “report” is a “laundry list” not an engineering report. The submitted “report” has no timelines to complete proposed items and no correlation to the Commission’s General Order 103 or DHS compliance orders or guidelines.

The purpose of the engineering report is to formulate a *plan of action* for the company to execute in order to improve the system’s current and future operation and maintenance program, prepare the company for the future in terms of growth and safety regulations, and in general, ensure its successful operation into the future.

In discussing the “report” its author, registered Civil Engineer Frank Walters, stated the list was sent to him by CSWC and he rewrote the list under his letterhead. Mr. Walters also stated a 1997 request of Mr. Conlin to supply a current system map never materialized. DHS also noted the lack of a current system map; a vital element for an optimized system operation.

An engineering report would have revealed the following discovered during the May 2000 DHS/CPUC site inspection. The DHS staff member determined the Lower Dymond Tank could be removed from the system since it’s actual function is to act as a huge valve in the system. These observations allow for the types of innovations an engineering report would reveal.

¹ Findings of Fact No. 10 of D.99-11-044: Water Division staff is intimately familiar with past Commission and DHS’ orders to improve this system. This makes them uniquely qualified to assess whether improvements have been **satisfactorily completed**.

See the Final Verification Report for discussion of other reasons why the submitted “report” does not satisfactorily clear this violation.

SYSTEM OPERATOR

Per OP 7 of D.99-11-044, staff finds the current system manager has not been replaced and CSWC has not fulfilled the requirements of D.96-09-043.

D.97-10-032, Order Modifying and Denying Rehearing of D.96-09-043 does not impact OP 7 of D.99-11-044. In fact, D.97-10-032 strengthens OP 7 by pointing out past cases where the Commission has ordered other water companies to hire qualified personnel:

“For example, in RE the Application of Yucca Water Company...we ordered Yucca to hire a qualified field supervisor and a qualified office manager.”

D.96-09-043 requires the company to hire BOTH a qualified Operations Manager AND System Manager. Conclusions of Law No. 4 states:

“Within 60 days after the effective date of this order Conlin-Strawberry should replace its current system manager with one who is qualified and willing to comply with past Commission and DHS orders. Commission staff should approve the selected system manager and/or operator.”

Note the use of “and/or” language to indicate that the system manager might also be the system operator, but removal of the current system manager is required. See the Final Verification Report for discussion of other reasons why OP 7 of D. 99-11-044 requires replacement of the current system manager.

All DHS violations listed in Res. W-4187 have been completed and are therefore no longer a compliance issue. However, a DHS letter dated May 26, 2000, lists six new issues needing completion by CSWC:

1. Collect the remaining three quarters of radiological analyses this year.
2. Collect five lead and copper samples from the distribution system this summer and five samples again next summer.
3. Permanently fix the leaks in the Upper Dymond Tank, especially the leak draining from the bottom of the tank.
4. Even though the TTHM and HAA5 results were below MCLs, the Company is close to failing each standard. The Chlorine injection point may need to be moved downstream of the filters in order to

comply with these standards.

5. The Water Company needs to develop and mail to all customers a Consumer Confidence Report by August 15, 2000.
6. The Water Company needs to install a continuous chlorine residual analyzer and/or a flow switch on the hypochlorination system with an alarm shutdown feature to improve disinfection reliability.

The company is to reply to the above DHS items outlining what CSWC will do to address these issues by August 15, 2000.

Findings and Recommendations

1. Conlin Strawberry Water Company has complied with most of the items listed for verification in Res. W-4187.
2. The items not completed are serious and should not be ignored by either the Commission or the Company, rather a new time line should be established.
3. The new timeline for completion of all items listed in Findings and Recommendation No. 5 should be September 30, 2000.
4. Enforcement of the newly established timeline should be guided by the language listed in OP 9 of D. 99-11-044.
5. Items to be completed:
 - a) Collect the remaining three quarters of radiological analyses this year.
 - b) Collect five lead and copper samples from the distribution system this summer and five samples again next summer.
 - c) Permanently fix the leaks in the Upper Dymond Tank, especially the leak draining from the bottom of the tank.
 - d) Even though the TTHM and HAA5 results were below MCLs, the Company is close to failing each standard. The Chlorine injection point may need to be moved downstream of the filters in order to comply with these standards.
 - e) The Water Company needs to develop and mail to all customers a Consumer Confidence Report by August 15, 2000.
 - f) The Water Company needs to install a continuous chlorine residual analyzer and/or a flow switch on the hypochlorination system with an alarm shutdown feature to improve disinfection reliability.
 - g) New System Manager approved by the Commission.

- h) Engineering Report approved by the Commission.

Based upon the staff investigation and evaluation delineated above, recognizing that CSWC has still not complied with all Commission and DHS orders, the following actions are called for:

IT IS ORDERED that:

1. Conlin-Strawberry Water Company, Inc. is hereby ordered to make all improvements which remain uncorrected according to the time schedule indicated in the Findings and Recommendations section of this resolution.
2. Within one month following the September 30, 2000 deadline for completion of the items listed in the Findings and Recommendation section of this resolution, the Director of the Commission's Water Division shall file for our review, with a copy to the Commission General Counsel, a status of compliance verification report regarding the required items in this resolution.
3. If Conlin-Strawberry fails to make the required improvements as ordered in this resolution by September 30, 2000, the Commission General Counsel shall promptly prepare for the Commission's review, a petition, pursuant to Section 855 of the Public Utilities Code, to be filed in the Superior Court of Tuolumne County seeking the appointment of a receiver to assume possession of Conlin-Strawberry Water Company, Inc. and to operate the utility system.
4. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on July 20, 2000. The following Commissioners approved it:

WESLEY M. FRANKLIN
Executive Director